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Attorneys for Defendants
 SHARP DEVELOPMENT COMPANY, INC. and
 SHARP LAFAYETTE, INC.

UNITED STATES DISTRICT COURT
 NORTHERN DISTRICT OF CALIFORNIA

In re:

CASE NO. C-05-787 PVT

EXDS, INC. (f/k/a EXODUS
 COMMUNICATIONS, INC.),

Debtor

EXDS, INC. (f/k/a EXODUS
 COMMUNICATIONS, INC.),

Plaintiff,

v.

DEVCON CONSTRUCTION, INC.
 SHARP DEVELOPMENT COMPANY,
 INC., and SHARP LAFAYETTE, LLC,

Defendants.

**STIPULATION AND ~~PROPOSED~~
 ORDER AMENDING SCHEDULING FOR
 DEFENDANTS SHARP DEVELOPMENT
 AND SHARP LAFAYETTE TO SUBMIT
 FURTHER EXPERT REPORT AND TO
 FILE MOTION FOR SUMMARY
 JUDGMENT**

WHEREAS, on or about August 25, 2005, the Court in the above-captioned case issued an Order [Docket Doc. No. 239] granting plaintiff EXDS, Inc. ("EXDS") leave to file a Second Amended Complaint and provided Defendants Sharp Development Company, Inc. and Sharp Lafayette, LLC (collectively for convenience only "SHARP") with, among other things and

1 related to the new allegations and/or new cause of action in the Second Amended Complaint, the
2 opportunity to submit a further expert report by September 23, 2005 and to file any motion for
3 summary judgment by October 11, 2005;

4 WHEREAS, SHARP served written discovery on EXDS and SHARP believes EXDS'
5 responses to that discovery, which are not due until after September 23, 2005, may limit the scope
6 of or possibly eliminate the need for any further expert report;

7 WHEREAS, SHARP would like to complete the depositions of EXDS' experts for
8 purposes of its motion for summary judgment and, after diligent efforts by counsel and the
9 witnesses, those depositions are scheduled for November 8-10, 2005; and,

10 WHEREAS, EXDS and SHARP have agreed to extend the time for SHARP to submit a
11 further expert report and to file a motion for summary judgment as provided herein.

12 NOW, THEREFORE, EXDS AND SHARP stipulate and agree, and request that the Court
13 enter an order as follows:

14 1. SHARP shall have an extension of time to October 18, 2005 to serve a further
15 expert report to address the new allegations and/or new cause of action in the Second Amended
16 Complaint; and,

2. SHARP shall have an extension of time to November 29, 2005 to file any summary judgment motion related to EXDS' new allegations and/or new cause of action, for hearing no later than January 3, 2006.

STIPULATED AND AGREED.

Dated: September 23, 2005

Jenner & Block LLP

By: //s//
Richard F. Levy
Attorneys for Plaintiff, EXDS, Inc.

Dated: September 23, 2005

HOPKINS & CARLEY
A Law Corporation

By: //s//
Jay M. Ross
Attorneys for Defendants
**SHARP DEVELOPMENT COMPANY,
INC. and SHARP LAFAYETTE, INC.**

IT IS SO ORDERED.

Dated: 9/26/05


PATRICIA V. TRUMBULL
United States Magistrate Judge